

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WORLD WIDE LEARN, INC., an Alberta,
Canada corporation,

No.

V._a

WWW.WORLDWIDELEARN.COM, an internet domain name,

Defendant.

**COMPLAINT FOR TRANSFER OF
DOMAIN NAME – 15 U.S.C. §
1125(d)(2)**

Plaintiff World Wide Learn, Inc. (“World Wide Learn” or “Plaintiff”) alleges the following in support of its claim against the Internet Domain Name WWW.WORLDSDWIDELEARN.COM (“Defendant”):

NATURE OF THE ACTION

1. Plaintiff Word Wide Learn is the world's largest directory of e-learning courses and online education resources, featuring informative resources as well as hundreds of e-learning courses in 360 subject categories. World Wide Learn enables its users to quickly and easily locate effective e-learning courseware. The World Wide Learn online directory highlights free courses and tutorials, computer training, corporate training, post-secondary education, professional development, personal development, and continuing education. World

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1 Wide Learn receives approximately 450,000 visitors and 1,200,000 page views per month.
2 World Wide Learn's website is found on the Internet at
3 WWW.WORLDWIDELEARN.COM.

4 2. Plaintiff files this *in rem* action asserting a claim for cyberpiracy under the
5 Anticybersquatting Consumer Protection Act ("Cyberpiracy Act"), 15 U.S.C. § 1125(d).

6 3. This lawsuit involves quintessential cyberpiracy. WORLDWIDELEARN is a
7 distinctive trademark, which Plaintiff owns and has used extensively in both Canada and the
8 United States. In the field of online educational resources, WORLDWIDELEARN is an
9 immediately recognized mark that exclusively identifies Plaintiff and its goods and services.
10 Notwithstanding Plaintiff's rights in the mark WORLDWIDELEARN, the domain name
11 WWW.WORLDSWIDELEARN.COM, which is identical to Plaintiff's domain name, save
12 the addition of an "s," has been registered by an individual having no affiliation with Plaintiff
13 whatsoever, with no legitimate right to use that domain name, and who is using the domain
14 name to lure unsuspecting consumers and advertisers to its website, which website is an exact
15 duplicate of Plaintiff's site. This is the precise scenario that the *in rem* provisions of the
16 Cyberpiracy Act were enacted to combat, namely, the scenario in which a cyberpirate uses the
17 trademarks of others to profit, either by deceiving unsuspecting consumers into visiting a
18 website or by ransoming the website to a trademark holder, while using the anonymity made
19 possible by the Internet to evade liability for usurping those intellectual property interests.

20 4. The World Intellectual Property Organization ("WIPO"), an entity organized
21 under the auspices of the United Nations to protect intellectual property, has condemned the
22 widespread epidemic of cyberpiracy. WIPO noted that "[f]amous and well-known marks
23 have been the special subject of predatory and parasitical practices by a minority of domain
24 name registrants acting in bad faith." WIPO Interim Report on the Internet, December 23,
25 1998, at iii; WIPO Interim and Final Report, *available at* <<http://wipo2.wipo.int>>.

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1 5. In passing the Cyberpiracy Act, Congress indicated its intent to address the
 2 increasing epidemic of cyberpirates who “registered, trafficked in, or used the offending
 3 domain name with bad-faith intent to profit from the goodwill of a mark belonging to
 4 someone else.” H.R. Conf. Rep. No. 106-464 (Nov. 9, 1999). As Senator Hatch observed in
 5 supporting passage of the Cyberpiracy Act:

6 [T]oday the Senate considers legislation to address the serious threats to American
 7 consumers, businesses, and the future of electronic commerce, which derive from the
 8 deliberate, bad-faith registration of Internet domain names in violation of the rights of
 9 trademark owners. For the Net-savvy, this burgeoning form of cyber-abuse is known
 10 as “cybersquatting.” For the average consumer, it is simply fraud, deception, and the
 11 bad-faith trading on the goodwill of others.

12 Cong. Rec. S10515 (daily ed. August 5, 1999) (statement of Sen. Hatch).

13 6. Section 3002 of the Cyberpiracy Act (15 U.S.C. § 1125(d)(1)(A)), provides in
 14 pertinent part:

15 A person shall be liable in a civil action by the owner of a mark . . . if,
 16 without regard to the goods or services of the parties, that person –
 17 (i) has a bad faith intent to profit from that mark . . . and;
 18 (ii) registers, traffics in, or uses a domain name that –

19 (I) in the case of a mark that is distinctive at the time of
 20 registration of the domain name, is identical or confusingly
 21 similar to that mark; [or]
 22 (II) in the case of a famous mark that is famous at the time
 23 of registration of the domain name, is identical or confusingly
 24 similar to or dilutive of that mark . . .

25 7. In bringing this lawsuit, Plaintiff seeks a preliminary and permanent injunction
 26 transferring the domain name WWW.WORLDWIDELEARN.COM to Plaintiff.

JURISDICTION AND VENUE

27 8. This Court has subject matter jurisdiction over this claim pursuant to 28 U.S.C.
 28 §§ 1331 and 1338(a).

29 9. This Court has *in rem* jurisdiction over the domain name pursuant to 15 U.S.C.
 30 § 1125(d)(2)(A)(ii)(I) in that this Court does not have personal jurisdiction over the registrant

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1 of the domain name WWW.WORLDSWIDELEARN.COM because the registrant has
2 engaged in conduct to conceal his or her true identity and location by providing false contact
3 information in connection with the registration of that domain name, claiming at present to
4 reside in California where registrant or its representatives have not been reached despite
5 Plaintiff's attempt to contact registrant by using the phone number that he or she provided.

6 This Court also has *in rem* jurisdiction over the domain name under 15 U.S.C.
7 §1125(d)(2)(C)(i) because the domain name registrar is located in this jurisdiction and under
8 15 U.S.C. § 1125(d)(2)(C)(ii) because, upon commencement of this case, documents
9 sufficient to establish control and authority regarding the disposition of the registration and
10 use of the domain names can be expeditiously deposited with the Court.

11 10. Venue lies in this District under 15 U.S.C. § 1125(d)(2)(A) and (C) because
12 eNom, Inc. ("eNom"), is the registrar of the domain name
13 WWW.WORLDSWIDELEARN.COM and is located in this Judicial District.

14 **THE PARTIES**

15 11. Plaintiff is an Alberta, Canada corporation with its principal place of business
16 at 1039 - 17th Avenue SW, Calgary, Alberta, Canada T2T 0B2.

17 12. The registrant of the defendant domain name
18 WWW.WORLDSWIDELEARN.COM originally provided the following contact information
19 in connection with the registration of the domain name: Li Hongyi, 110 E. Center Street
20 #193, Madison, SD, 57042, US; phone: +1.6054275413; email: lhy0781@hotmail.com. This
21 information was changed on January 19, 2006 to 4621 Littlejohn St., Baldwin Park, California
22 91706; email: info@worldswidelearn.com.

23 13. For the reasons set forth below, Plaintiff is informed and believes that the
24 information provided in registering the domain name is falsified and that the cyberpirate's
25 true identity and location remain unknown.

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14. *In rem* jurisdiction in this District is thus proper because Plaintiff is unable to locate or serve the cyberpirate and because the registrar for this domain name, eNom, is located in this Judicial District.

FACTUAL BACKGROUND

*Plaintiff's Trademark Rights
and Harm Suffered as a Result of the Registrant's Actions*

15. The registrant of the illegal website WWW.WORLDSWIDELEARN.COM is a commercial pirate in every sense of what the anti-Cyberpiracy Act describes and is designed to prohibit. With bad faith intent, the cyberpirate has attempted and continues to attempt to capitalize financially on the goodwill and identifying marks of Plaintiff.

16. Plaintiff holds the Canadian trademark registration for WORLDWIDELEARN, and its federal registration in the United States is pending.

17. Plaintiff has used continuously the WORLDWIDELEARN trademark in connection with its business in the United States since at least May 13, 1999 – well before the acts complained of herein.

18. Plaintiff uses its website identified by the mark WORLDWIDELEARN at the domain name WWW.WORLDWIDELEARN.COM in order to generate and collect "leads" in the form of names and contact information from individuals interested in Plaintiff's clients' education services. Plaintiff contracts with its clients to provide leads generated by the website.

19. The fraudulent website located at the Defendant domain name invites website visitors to provide their contact information, which contact information, upon information and belief, is diverted from Plaintiff and collected by Defendant's registrant and used for his or her own commercial purposes.

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20. The commercial purposes of Defendant's registrant are known to include attempting to sell and selling advertising to Plaintiff's competitors on the pirated website and are believed to include selling the leads generated by the pirated website to Plaintiff's competitors.

21. As a proximate result, Plaintiff has been deprived of countless leads that otherwise would be generated and collected on its website, as well as the corresponding revenue to which Plaintiff is entitled pursuant to its lead generation contracts with its clients.

22. In addition to the commercial activities described above, Defendant's registrant actively defrauds and misleads consumers and the public at large by purporting to provide the specialty services and expertise that Plaintiff has developed and provided over the last seven years. Moreover, consumers are duped into providing personal identifying information, which Plaintiff believes is used in furtherance of Defendant's registrant's commercial activities but which may also be used for any other nefarious activities Defendant's registrant pursues.

23. Plaintiff has spent considerable sums and has expended significant effort in advertising, promoting, and developing the WORLDWIDELEARN mark throughout the world. As a result of such advertising and expenditures, Plaintiff has established considerable goodwill in the WORLDWIDELEARN mark. The mark has become widely known and recognized as Plaintiff's mark and is associated by the consuming public exclusively with Plaintiff and its services. The WORLDWIDELEARN mark, and the goodwill associated with the mark, is an asset of substantial worth to Plaintiff.

Cyberpiracy of WWW.WORLDSWIDELEARN.COM

24. The domain name WWW.WORLDSWIDELEARN.COM was registered in bad faith and with the intention of capitalizing on, and profiting from, the goodwill and reputation of Plaintiff's WORLDWIDELEARN mark.

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1 25. Defendant's piratical motives and bad faith intent are evidenced by the fact that
 2 once Defendant's registrar was contacted about this problem and removed access to the
 3 website, the registrant quickly transferred the domain name registration services to another
 4 registrar in an effort to avoid Plaintiff and to continue to exploit Plaintiff's goodwill and to
 5 concomitantly deceive consumers. The registrant re-registered the Defendant domain name
 6 with a different registrar within twenty-four hours after the first registrar removed access to
 7 the illegal site.

8 26. The registrant's bad faith intent and attempt to trade off Plaintiff's mark and
 9 attendant goodwill is further manifest by his or her wholesale copying of the home page of
 10 Plaintiff's website, to the smallest degree, including even Plaintiff's copyright notice.

11 27. Furthermore, the registrant of WWW.WORLDSWIDELEARN.COM provided
 12 false registration information to the registrar, violating the terms of the registration agreement
 13 that required the registrant to provide complete and accurate contact information and to
 14 amend the information provided at the time of registration as needed to ensure its accuracy.

15 28. The cyberpirate is not in any way affiliated or associated with Plaintiff and has
 16 absolutely no right to use Plaintiff's mark. The cyberpirate falsely represented and warranted
 17 to the registrar, eNom, that he or she had a right to register the domain name, that such
 18 registration did not interfere with the right of any third party with respect thereto, and/or that
 19 the domain name would not be used for any unlawful purpose.

20 29. The registration of WWW.WORLDSWIDELEARN.COM constitutes
 21 cyberpiracy and tarnishes the goodwill and reputation of Plaintiff. The registration of domain
 22 names containing distinctive trademarks places an intolerable burden on trademark holders
 23 like Plaintiff, who must continuously monitor such domain names to determine whether they
 24 are being used for improper purposes, to sell counterfeit goods or services such as here, or are
 25 otherwise being used in an unauthorized and unlawful manner.

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1
2 **FIRST CLAIM FOR RELIEF**
3

(Cyberpiracy)

4 30. The allegations set forth above are incorporated herein by this reference.

5 31. The actions described above evidence bad faith intent to profit from the
6 registration and/or use of Plaintiff's distinctive WORLDWIDELEARN mark in an Internet
7 domain name.

8 32. The registrant of WWW.WORLDSWIDELEARN.COM has registered,
9 trafficked in, and/or used a trademark that was distinctive at the time of registration of the
10 domain name and was identical or confusingly similar to Plaintiff's WORLDWIDELEARN
11 mark, and/or registered, trafficked in, and/or used a famous trademark that was famous at the
12 time of the registration of the domain name and was identical or confusingly similar to or
13 dilutive of that mark.

14 33. Plaintiff is entitled to an order and injunction immediately transferring the
15 domain name WWW.WORLDSWIDELEARN.COM to Plaintiff.

16 WHEREFORE, Plaintiff prays for judgment as follows:

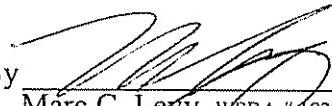
17 A. That the Internet domain name WWW.WORLDSWIDELEARN.COM be
18 transferred to Plaintiff; and

19 B. For such other and further relief that that the Court may consider just and
20 appropriate.

21 DATED this 24th day of January, 2006.

22 PRESTON GATES & ELLIS LLP

23 By _____
24

25 
26 Marc C. Levy, WSBA #19203
Attorneys for Plaintiff
World Wide Learn, Inc.

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